

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
BRYSON CITY DIVISION

CRIMINAL CASE NO. 2:10cr23

UNITED STATES OF AMERICA,)
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 vs.)
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AUSTIN LEE HEDDEN.)
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O R D E R

THIS MATTER is before the Court *sua sponte* to continue this case from the March 2011 term.

On November 17, 2010, the Defendant was charged with two counts of transporting and possessing visual depictions of the sexual exploitation of minors, in violation of 18 U.S.C. §§2252(a)(1) & (b) & 2252(a)(4)(B). [Doc. 1]. On March 9, 2011, the parties entered into a plea agreement pursuant to which the Defendant agreed to plead guilty to Count One. [Doc. 14]. During the Rule 11 hearing on March 15, 2011, it became apparent that an issue concerning the length of the mandatory minimum sentence that would be applicable in this case needed to be resolved prior to the completion of the Rule 11 inquiry. As a result, the Magistrate Judge continued the Rule 11 hearing so that the parties would have an adequate opportunity to research and resolve the issue. The parties advise that the case is not for trial; the

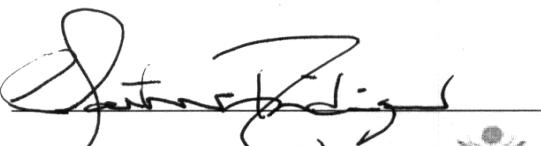
Defendant intends to enter his guilty plea as soon as the outstanding issue is resolved. Counsel for both sides have indicated that they desire that the matter be continued, but due to their both being involved in a lengthy hearing in another matter since the scheduled Rule 11 hearing, they have been unable to make a motion therefor.

The Court finds under the circumstances that a failure to continue the case would result in a miscarriage of justice. 18 U.S.C. §3161(h)(7)(B)(i). The Court also finds a failure to grant the continuance would deny the Defendant's attorney the reasonable time necessary for effective preparation, taking into account the exercise of due diligence. 18 U.S.C. §3161(h)(7)(B)(iv).

The Court therefore finds that the ends of justice served by continuing the case outweigh the best interests of the public and the Defendant in a speedy trial. 18 U.S.C. §3161(h)(7)(A).

IT IS, THEREFORE, ORDERED that this matter is continued from the March 21, 2011 term of Court.

Signed: March 19, 2011



Martin Reidinger
United States District Judge

